

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

Civil Division

Case No. 3:20-cv-90

Highland Tank & Manufacturing
Company, Plaintiff,

Jury Trial ☐ YES ☒ NO

vs.

ATEC, Inc., Defendant

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff, HIGHLAND TANK & MANUFACTURING COMPANY, is a Pennsylvania business corporation with its principal place of business and mailing address located at One Highland Road, Somerset County, Stoystown, PA 15563.

B. The Defendant, ATEC, Inc., is a Texas business corporation with its principal place of business and mailing address located at 12600 Executive Drive, Fort Bend County, Stafford, TX 77477.

II. Basis for Jurisdiction

The underlying action is brought under the diversity of citizenship statute [28 U.S.C. Section 1332(a)(1)] as Plaintiff is a citizen of Pennsylvania since it is incorporated in Pennsylvania , Defendant is a citizen of Texas since it is incorporated in Texas and has its principal place of business in Texas, and the amount in controversy of \$128,984.20 (set forth more fully below) exceeds \$75,000.00.

III. Statement of Claim

A. On June 7, 2019 Defendant requested credit from Plaintiff for the purchase of certain storage tanks to be manufactured by Plaintiff and sold to Defendant. (A copy of this signed Credit Application is attached as Exhibit “1” to this Complaint.)

B. On August 5, 2019 the parties entered into a written contract whereby Plaintiff would specifically manufacture and sell to Defendant six (6) 450-gallon storage tanks for an agreed upon total price of \$97,404.00. (A copy of Defendant’s revised and signed Purchase Order is attached as Exhibit “2” to this Complaint and a copy of the Plaintiff’s Invoices for the six tanks is attached as Exhibit “3” to this Complaint.)

C. On December 6, 2019, Defendant picked up five (5) of the storage tanks from a facility of Plaintiff’s in Michigan. On December 11, 2019, Defendant picked up the final storage tank from Plaintiff.

D. Defendant has refused to pay Plaintiff for the storage tanks which were manufactured and sold to Defendant, and Defendant is therefore in breach of the contract entered into between the parties for non-payment. Additionally, Defendant has been unjustly enriched by using these specifically manufactured storage tanks without making any payment to Plaintiff.

IV. Relief

Plaintiff claims damages in the amount of \$128,984.20 as follows:

Initial amount of invoice:	\$ 97,404.00
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Plus: Finance Charges per the signed

Credit Application to date	\$ 5,783.36
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Plus: Collection Costs per the signed

Credit Application to date	<u>\$ 25,796.84</u>
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Total	\$128,984.20
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V. Certification

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information and belief that this complaint (1) is not being presented for

an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies the requirements of Rule 11.

Date of signing: May 7, 2020

Signature of Attorney: s/Matthew M. Jacob

Printed Name of Attorney: Matthew M. Jacob
Bar Number: PA56746

Name of Law Firm: Jacob Law Associates

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